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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,589

03/21/2005

Takehiro Zukawa

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52044

7590

05/14/2008

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EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

05/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,589	Applicant(s) ZUKAWA ET AL.	
	Examiner C. Melissa Koslow	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/21/05;10/22/07</u> . | 6) <input type="checkbox"/> Other: _____ |

This action is in response to applicants' amendment of 29 February 2008, which was in response to the restriction requirement of 11 February 2008.

The non-English language references cited in the information disclosure statements have been considered with respect to the supplied English abstracts, translation, r relevancy given in the Search Report of 18 November 2003 and/or the discussion of the references given in the International Preliminary Report on Patentability of 28 July 2004.

Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The subject matter of claim 35, as claimed, is not found in the specification. The specification teaches on page 11 and 12 forming an uniform phosphor layer and then modifying the layer so that the phosphor particles residing at and near the surface of the layer have a surface region including a vicinity thereof modified so that an elemental composition of the surface region include more chalcogen or halogen than an elemental composition of an internal region of the phosphor, as compared to the other phosphors in the inner regions of the layer and that these treated particles are disproportionally distributed in the layer, as compared with the untreated phosphor particles. The claim, as written, indicate that all the particles in the phosphor layer have the structure of claim 31 and that there are more phosphors particles residing at or near the surface of the layer than in an inner region. This is different from what is disclosed in the specification.

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Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

This claim is non-enabled since there is no teaching as to how one can form a layer where there are more phosphor particles at and near the surface than in the inner regions of the layer.

Claims 35 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The wording of claim 35 is indefinite since it unclear how a stable layer can have more phosphor particles at and near the surface than in the inner regions of the layer. Claim 39 is indefinite since it is unclear if the phrase after "including" is the means for suppressing time-lapse changes in luminescent characteristics or not. If it is then 35 USC 112, sixth paragraph is not invoked. If it is not, then is claim is indefinite since the specification teaches the structure in lines 4-6 is one of two disclosed means for suppressing time-lapse changes in luminescent characteristics.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 31-39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 24, 25 and 28-30 of copending Application No. 11/802,862. Although the conflicting claims are not identical, they are not patentably distinct from each other because the process claimed in the copending application forms the plasma display panel claimed in this application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 31, 32, 34, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 5 and 7 of U.S. Patent No. 7,161,298. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed display and method in the patent suggests the plasma display panel claimed in this application.

Claims 31, 32, 34, 36, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 7,176,627. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed display and method in the patent suggests the plasma display panel claimed in this application.

Claims 31, 32, 34, 36, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3 and 5 of U.S. Patent No. 7,183,705. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed display and method in the patent suggests the plasma display panel claimed in this application.

Claims 31, 32, 34, 36, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 7,192,325. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed method in the patent suggests the plasma display panel claimed in this application since the claimed method produces phosphor for plasma display panels.

Claims 31, 32, 34, 36, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 7,204,939. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed display and method in the patent suggests the plasma display panel claimed in this application.

Claims 31, 32, 34, 36, 38 and 39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 of U.S. Patent No. 7,223,987. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed display in the patent suggests the plasma display panel claimed in this application.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 31, 32, 34, 36, 38 and 39 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 03/025090.

U.S. patent 7,204,939 is the national stage application for WO 03/025090 and thus the patent is the translation for WO 03/025090.

This reference teaches a plasma display screen having one of more phosphor layers, where the blue phosphor layer comprises an europium activated alkaline earth aluminate phosphor. This reference teaches treating the phosphor in an oxidizing atmosphere, such as one comprising ozone. This is the same process as disclosed in applicants' specification and therefore the resulting phosphor must have a surface region including a vicinity thereof modified so that an elemental composition of the surface region include more oxygen, a chalcogen, than an elemental composition of an internal region of the phosphor. The reference teaches this treatment step suppresses time-lapse changes in the luminescent characteristics of the phosphors and thus it teaches the means of claim 39. The reference teaches the claimed panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/cmk/
May 15, 2008

/C. Melissa Koslow/
Primary Examiner
Art Unit 1793